

AMENDED IN SENATE JULY 2, 2003

AMENDED IN ASSEMBLY MAY 13, 2003

AMENDED IN ASSEMBLY APRIL 28, 2003

AMENDED IN ASSEMBLY APRIL 10, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1669**

**Introduced by Assembly Member Chu**

February 21, 2003

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~~An act to amend, repeal, and add Section 2960 of, and to add Sections 2093 and 2430 to,~~ *An act to add Sections 2247 and 2960.2 to the Business and Professions Code, to amend, repeal, and add Section 1031 of the Government Code, and to add Section 832.05 to the Penal Code, relating to peace officers.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1669, as amended, Chu. Peace officers: psychological evaluations.

(1) Existing law requires that public officers or employees declared by law to be peace officers meet certain minimum standards, including being found free from any emotional or mental condition that might adversely affect the exercise of the powers of a peace officer. Existing law requires that the person's emotional and mental condition be evaluated by a licensed physician and surgeon or by a licensed psychologist who has a doctoral degree in psychology and at least 5 years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders. *Existing law regulates the professions*

*of physicians and surgeons and psychologists, and makes a violation of the provisions regulating psychologists a misdemeanor.*

This bill would, on and after January 1, 2005, instead require that the evaluation be done by a ~~licensed~~ physician and surgeon who is ~~board certified in psychiatry by the American Board of Psychiatry and Neurology~~ *has completed specified residency and experience requirements* or by a licensed psychologist who has ~~a doctoral degree in psychology~~ and at least 5 *full-time* years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders, with at least 3 of these years accrued postdoctorate, and would require the physician and surgeon or psychologist to meet certain other educational and training standards. ~~The~~

*This bill, on and after January 1, 2005, would require a state or local department or agency employing peace officers to utilize a physician and surgeon or a psychologist meeting these requirements for a peace officer recruit's emotional and mental screening evaluation or for the evaluation of a peace officer to determine fitness for duty.*

~~(2) Existing law regulates the professions of peace officers, physicians and surgeons, and psychologists and makes a violation of the provisions regulating psychologists is a misdemeanor.~~

~~This bill, on and after January 1, 2005, would prohibit a physician and surgeon or a psychologist from performing evaluations of a peace officer applicant's emotional and mental condition or performing an evaluation of a peace officer's fitness for duty unless he or she is licensed, has met specified educational and training requirements, and, if a psychologist, he or she has a doctoral degree in psychology and at least 5 years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders, at least three of these years accrued postdoctorate. The bill would also, on or after January 1, 2005, prohibit a physician and surgeon or a psychologist from performing such evaluations unless he or she meets the licensing, education, and training requirements.~~

Because this bill would create prohibitions applicable to psychologists, the violation of which would be a crime, it would impose a state-mandated local program.

~~(3)~~

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund

to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section ~~2093~~ 2247 is added to the Business and  
2 Professions Code, to read:  
3 ~~2093.~~  
4 2247. (a) A licensee shall meet the requirements set forth in  
5 subdivision (f) of Section 1031 of the Government Code prior to  
6 performing either of the following:  
7 (a)  
8 (1) An evaluation of a peace officer applicant's emotional and  
9 mental condition.  
10 (b)  
11 (2) An evaluation of a peace officer's fitness for duty.  
12 (c)  
13 (b) This section shall become operative on January 1, 2005.  
14 ~~SEC. 2. Section 2430 is added to the Business and Professions~~  
15 ~~Code, to read:~~  
16 ~~2430. (a) The board may suspend, revoke, or refuse to renew~~  
17 ~~the license of a physician and surgeon that is a board-certified~~  
18 ~~psychiatrist if that physician and surgeon performs evaluations of~~  
19 ~~a peace officer applicant's emotional and mental condition, or~~  
20 ~~performs an evaluation of a peace officer's fitness for duty, without~~  
21 ~~meeting the requirements for conducting an emotional and mental~~  
22 ~~evaluation set forth in subdivision (f) of Section 1031 of the~~  
23 ~~Government Code.~~  
24 ~~(b) This section shall become operative on January 1, 2005.~~  
25 ~~SEC. 3. Section 2960 of the Business and Professions Code~~  
26 ~~is amended to read:~~

~~2960. The board may refuse to issue any registration or license, or may issue a registration or license with terms and conditions, or may suspend or revoke the registration or license of any registrant or licensee if the applicant, registrant, or licensee has been guilty of unprofessional conduct. Unprofessional conduct shall include, but not be limited to:~~

~~(a) Conviction of a crime substantially related to the qualifications, functions or duties of a psychologist or psychological assistant.~~

~~(b) Use of any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or dangerous drug, or any alcoholic beverage to an extent or in a manner dangerous to himself or herself, any other person, or the public, or to an extent that this use impairs his or her ability to perform the work of a psychologist with safety to the public.~~

~~(c) Fraudulently or neglectfully misrepresenting the type or status of license or registration actually held.~~

~~(d) Impersonating another person holding a psychology license or allowing another person to use his or her license or registration.~~

~~(e) Using fraud or deception in applying for a license or registration or in passing the examination provided for in this chapter.~~

~~(f) Paying, or offering to pay, accepting, or soliciting any consideration, compensation, or remuneration, whether monetary or otherwise, for the referral of clients.~~

~~(g) Violating Section 17500.~~

~~(h) Willful, unauthorized communication of information received in professional confidence.~~

~~(i) Violating any rule of professional conduct promulgated by the board and set forth in regulations duly adopted under this chapter.~~

~~(j) Being grossly negligent in the practice of his or her profession.~~

~~(k) Violating any of the provisions of this chapter or regulations duly adopted thereunder.~~

~~(l) The aiding or abetting of any person to engage in the unlawful practice of psychology.~~

~~(m) The suspension, revocation or imposition of probationary conditions by another state or country of a license or certificate to practice psychology or as a psychological assistant issued by that~~

1 ~~state or country to a person also holding a license or registration~~  
2 ~~issued under this chapter if the act for which the disciplinary action~~  
3 ~~was taken constitutes a violation of this section.~~

4 ~~(n) The commission of any dishonest, corrupt, or fraudulent~~  
5 ~~act.~~

6 ~~(o) Any act of sexual abuse, or sexual relations with a patient~~  
7 ~~or former patient within two years following termination of~~  
8 ~~therapy, or sexual misconduct that is substantially related to the~~  
9 ~~qualifications, functions or duties of a psychologist or~~  
10 ~~psychological assistant or registered psychologist.~~

11 ~~(p) Functioning outside of his or her particular field or fields of~~  
12 ~~competence as established by his or her education, training, and~~  
13 ~~experience.~~

14 ~~(q) Willful failure to submit, on behalf of an applicant for~~  
15 ~~licensure, verification of supervised experience to the board.~~

16 ~~(r) Repeated acts of negligence.~~

17 ~~(s) This section shall become inoperative on January 1, 2005,~~  
18 ~~and as of that date is repealed, unless a later enacted statute that is~~  
19 ~~enacted before January 1, 2005, deletes or extends the dates on~~  
20 ~~which it becomes inoperative and is repealed.~~

21 ~~SEC. 4.—Section 2960 is added to the Business and Professions~~  
22 ~~Code, to read:~~

23 ~~2960.—The board may refuse to issue a registration or license,~~  
24 ~~may issue a registration or license with terms and conditions, or~~  
25 ~~may suspend or revoke the registration or license of a registrant or~~  
26 ~~licensee if the applicant, registrant, or licensee has been guilty of~~  
27 ~~unprofessional conduct. Unprofessional conduct includes, but is~~  
28 ~~not limited to, all of the following:~~

29 ~~(a) Conviction of a crime substantially related to the~~  
30 ~~qualifications, functions, or duties of a psychologist or~~  
31 ~~psychological assistant.~~

32 ~~(b) Use of a controlled substance as defined in Division 10~~  
33 ~~(commencing with Section 11000) of the Health and Safety Code,~~  
34 ~~a dangerous drug, or an alcoholic beverage to an extent or in a~~  
35 ~~manner dangerous to himself or herself, another person, or the~~  
36 ~~public or to an extent that the use impairs his or her ability to~~  
37 ~~perform the work of a psychologist with safety to the public.~~

38 ~~(c) Fraudulently or neglectfully misrepresenting the type or~~  
39 ~~status of license or registration actually held.~~

- 1     ~~(d) Impersonating another person holding a psychology license~~  
2     ~~or allowing another person to use his or her license or registration.~~  
3     ~~(e) Using fraud or deception in applying for a license or~~  
4     ~~registration or in passing the examination provided for in this~~  
5     ~~chapter.~~  
6     ~~(f) Paying, offering to pay, accepting, or soliciting any~~  
7     ~~consideration, compensation, or remuneration, whether monetary~~  
8     ~~or otherwise, for the referral of clients.~~  
9     ~~(g) Violating Section 17500.~~  
10    ~~(h) Willful, unauthorized communication of information~~  
11    ~~received in professional confidence.~~  
12    ~~(i) Violating a rule of professional conduct promulgated by the~~  
13    ~~board and set forth in regulations duly adopted under this chapter.~~  
14    ~~(j) Being grossly negligent in the practice of his or her~~  
15    ~~profession.~~  
16    ~~(k) Violating a provision of this chapter or regulations duly~~  
17    ~~adopted thereunder.~~  
18    ~~(l) Aiding or abetting a person to engage in the unlawful~~  
19    ~~practice of psychology.~~  
20    ~~(m) The suspension, revocation, or imposition of probationary~~  
21    ~~conditions by another state or country of a license or certificate to~~  
22    ~~practice psychology or as a psychological assistant issued by that~~  
23    ~~state or country to a person also holding a license or registration~~  
24    ~~issued under this chapter, if the act for which the disciplinary~~  
25    ~~action was taken constitutes a violation of this section.~~  
26    ~~(n) The commission of a dishonest, corrupt, or fraudulent act.~~  
27    ~~(o) An act of sexual abuse or sexual relations with a patient or~~  
28    ~~former patient within two years following termination of therapy,~~  
29    ~~or sexual misconduct that is substantially related to the~~  
30    ~~qualifications, functions, or duties of a psychologist,~~  
31    ~~psychological assistant, or registered psychologist.~~  
32    ~~(p) Functioning outside of his or her particular field or fields of~~  
33    ~~competence as established by his or her education, training, and~~  
34    ~~experience.~~  
35    ~~(q) Willful failure to submit, on behalf of an applicant for~~  
36    ~~licensure, verification of supervised experience to the board.~~  
37    ~~(r) Repeated acts of negligence.~~  
38    ~~(s) Performing evaluations of a peace officer applicant's~~  
39    ~~emotional and mental condition or performing an evaluation of a~~  
40    ~~peace officer's fitness for duty without meeting the requirements~~

~~for conducting an emotional and mental evaluation set forth in subdivision (f) of Section 1031 of the Government Code.~~

~~(t) This section shall become operative on January 1, 2005.~~

~~SEC. 5.~~

*SEC. 2. Section 2960.2 is added to the Business and Professions Code, to read:*

*2960.2. (a) A licensee shall meet the requirements set forth in subdivision (f) of Section 1031 of the Government Code prior to performing either of the following:*

*(1) An evaluation of a peace officer applicant's emotional and mental condition.*

*(2) An evaluation of a peace officer's fitness for duty.*

*(b) This section shall become operative on January 1, 2005.*

*SEC. 3. Section 1031 of the Government Code is amended to read:*

*1031. Each class of public officers or employees declared by law to be peace officers shall meet all of the following minimum standards:*

*(a) Be a citizen of the United States or a permanent resident alien who is eligible for and has applied for citizenship, except as provided in Section 2267 of the Vehicle Code.*

*(b) Be at least 18 years of age.*

*(c) Be fingerprinted for purposes of search of local, state, and national fingerprint files to disclose any criminal record.*

*(d) Be of good moral character, as determined by a thorough background investigation.*

*(e) Be a high school graduate, pass the General Education Development Test indicating high school graduation level, pass the California High School Proficiency Examination, or have attained a two-year or four-year degree from an accredited college or university. The high school shall be either a United States public school meeting the high school standards set by the state in which it is located, an accredited United States Department of Defense high school, or an accredited nonpublic high school. Any accreditation required by this paragraph shall be from an accrediting association recognized by the Secretary of the United States Department of Education. This subdivision shall not apply to any public officer or employee who was employed, prior to the effective date of the amendment of this section made at the 1971 Regular Session of the Legislature, in any position declared by law*



1 prior to the effective date of that amendment to be peace officer  
2 positions.

3 (f) Be found to be free from any physical, emotional, or mental  
4 condition which might adversely affect the exercise of the powers  
5 of a peace officer. Physical condition shall be evaluated by a  
6 licensed physician and surgeon. Emotional and mental condition  
7 shall be evaluated by a licensed physician and surgeon or by a  
8 licensed psychologist who has a doctoral degree in psychology and  
9 at least five years of postgraduate experience in the diagnosis and  
10 treatment of emotional and mental disorders.

11 This section shall not be construed to preclude the adoption of  
12 additional or higher standards, including age.

13 (g) This section shall become inoperative on January 1, 2005,  
14 and as of that date is repealed, unless a later enacted statute ~~that~~,  
15 *which* is enacted before January 1, 2005, deletes or extends the  
16 dates on which it becomes inoperative and is repealed.

17 ~~SEC. 6.~~

18 *SEC. 4.* Section 1031 is added to the Government Code, to  
19 read:

20 1031. Each class of public officers or employees declared by  
21 law to be peace officers shall meet all of the following minimum  
22 standards:

23 (a) Be a citizen of the United States or a permanent resident  
24 alien who is eligible for and has applied for citizenship, except as  
25 provided in Section 2267 of the Vehicle Code.

26 (b) Be at least 18 years of age.

27 (c) Be fingerprinted for purposes of search of local, state, and  
28 national fingerprint files to disclose a criminal record.

29 (d) Be of good moral character, as determined by a thorough  
30 background investigation.

31 (e) Be a high school graduate, pass the General Education  
32 Development Test indicating high school graduation level, pass  
33 the California High School Proficiency Examination, or have  
34 attained a two-year or four-year degree from an accredited college  
35 or university. The high school shall be either a United States public  
36 school meeting the high school standards set by the state in which  
37 it is located, an accredited United States Department of Defense  
38 high school, or an accredited nonpublic high school. Any  
39 accreditation required by this paragraph shall be from an  
40 accrediting association recognized by the Secretary of the United



States Department of Education. This subdivision shall not apply to a public officer or employee who was employed, prior to the effective date of the amendment of this section made at the 1971 Regular Session of the Legislature, in any position declared by law prior to the effective date of that amendment to be peace officer positions.

(f) Be found to be free from any physical, emotional, or mental condition that might adversely affect the exercise of the powers of a peace officer.

(1) Physical condition shall be evaluated by a licensed physician and surgeon.

(2) Emotional and mental condition shall be evaluated by either ~~(A) a licensed physician and surgeon who is board certified in psychiatry by the American Board of Psychiatry and Neurology and has at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders, with at least three of these years accrued after psychiatric residency, or (B) a licensed psychologist who has a doctoral degree in psychology and at least five years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders, with at least three of these years accrued postdoctorate. The either~~ of the following:

(A) *A physician and surgeon who holds a valid California license to practice medicine, has successfully completed a postgraduate medical residency education program in psychiatry accredited by the Accreditation Council for Graduate Medical Education, and has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued after completion of the psychiatric residency program.*

(B) *A psychologist licensed by the California Board of Psychology who has at least the equivalent of five full-time years of experience in the diagnosis and treatment of emotional and mental disorders, including the equivalent of three full-time years accrued postdoctorate.*

The physician and surgeon or psychologist shall also have met any applicable education and training procedures set forth by the California Commission on Peace Officer Standards and Training designed for the conduct of preemployment psychological screening of peace officers.

1 ~~This~~

2 (g) *This* section shall not be construed to preclude the adoption  
3 of additional or higher standards, including age.

4 ~~(g)~~

5 (h) *This* section shall become operative on January 1, 2005.

6 ~~SEC. 7.~~

7 *SEC. 5.* Section 832.05 is added to the ~~Business and~~  
8 ~~Professions~~ *Penal Code*, to read:

9 832.05. (a) Each *state or local* department or agency ~~in this~~  
10 ~~state~~ that employs peace officers shall utilize a person meeting the  
11 requirements set forth in subdivision (f) of Section 1031 of the  
12 Government Code, applicable to emotional and mental  
13 examinations, for any emotional and mental evaluation done in the  
14 course of the department or agency's screening of peace officer  
15 recruits or the evaluation of peace officers to determine their  
16 fitness for duty.

17 (b) *This* section shall become operative on January 1, 2005.

18 ~~SEC. 8.~~

19 *SEC. 6.* No reimbursement is required by this act pursuant to  
20 Section 6 of Article XIII B of the California Constitution for  
21 certain costs that may be incurred by a local agency or school  
22 district because in that regard this act creates a new crime or  
23 infraction, eliminates a crime or infraction, or changes the penalty  
24 for a crime or infraction, within the meaning of Section 17556 of  
25 the Government Code, or changes the definition of a crime within  
26 the meaning of Section 6 of Article XIII B of the California  
27 Constitution.

28 However, notwithstanding Section 17610 of the Government  
29 Code, if the Commission on State Mandates determines that this  
30 act contains other costs mandated by the state, reimbursement to  
31 local agencies and school districts for those costs shall be made  
32 pursuant to Part 7 (commencing with Section 17500) of Division  
33 4 of Title 2 of the Government Code. If the statewide cost of the  
34 claim for reimbursement does not exceed one million dollars  
35 (\$1,000,000), reimbursement shall be made from the State  
36 Mandates Claims Fund.

O